BBM-141US2 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No:	10/730,210
Applicant:	Marc Richelsoph
Filed:	December 8, 2003
Title:	BONE PLATE AND SCREW RETAINING MECHANISM
TC/A.U.:	3775
Examiner:	Thomas C. Barrett
Confirmation No.:	2079
Notice of Appeal Filed:	January 6, 2009
Docket No.:	BBM-141US2

PAPER RESPONDING TO NON-COMPLIANT APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Paper is filed in reply to the September 24, 2009, Notification of Non-Compliant Appeal Brief. Appellants respectfully submit that this supplemental Paper addresses the issues raised in the Notification and submits a corrected Appendix to include only the claims involved in the appeal.

The necessary fees were paid in conjunction with the filing of the original Appeal Brief on March 6, 2009.

Respectfully Submitted,

RatnerPrestia

Glenn M. Massina, Reg. No. 40,081
Attorney for Appellants

GMM/mc 562553

Enclosure: Claims Appendix

Dated: October 14, 2009

P.O. Box 980
Valley Forge, PA 19482-0980
(610) 407-0700

The Director is hereby authorized to charge or credit Deposit Account No. **18-0350** for any additional fees, or any underpayment or credit for overpayment in connection herewith.

CLAIMS APPENDIX

1. A bone plate assembly utilizing at least one bone screw for fixation of adjacent bones of a spine comprising: a base plate including at least one aperture defining a through opening extending through the base plate; and a screw retaining mechanism mounted and rotatable within said aperture between locked and unlocked positions relative to said through opening for preventing the bone screw from backing out from said base plate, wherein said screw retaining mechanism includes a center axis and an internal opening eccentric to said center axis and having a ring at least substantially thereabout, and wherein said screw retaining mechanism is rotatable within said aperture about said center axis between said locked and unlocked positions, wherein said internal opening of said screw retaining mechanism is eccentric with said through opening of said base plate when in said locked position and said internal opening of said screw retaining mechanism is concentric with said through opening of said base plate when in said unlocked position.

2. The bone plate assembly according to claim 1, wherein said base plate further includes a longitudinal axis defined by a first end and a second end and a length along said axis sufficient to span between the adjacent vertebrae, said base plate further including an upper and a lower surface, said lower surface being adapted to engage the bones.

3. The bone plate assembly according to claim 2, wherein said base plate is curved transverse to said longitudinal axis to conform the bone plate to the curvature of the vertebrae.

4. The bone plate assembly according to claim 1, wherein said at least one aperture is selected from the group consisting of a circular hole, a bore, a slot, and polygonal opening.

5. The bone plate assembly according to claim 3, wherein said bore includes at least one internal recess disposed in at least one of said upper and lower surfaces of said plate.

6. The bone plate assembly according to claim 3, wherein said at least one aperture disposed between said ends of said bone fixation plate is disposed along said longitudinal axis of said bone fixation plate.

7. The bone plate assembly according to claim 3, wherein said at least one aperture is an elongated slot disposed at a substantially acute angle with respect to said longitudinal axis of the base plate.

8. The bone plate assembly according to claim 4, wherein said aperture includes an outer edge.

10. The bone plate assembly according to claim 1, wherein said screw retaining mechanism is selected from the group consisting of a washer, ring, clip, and disk.

15. The bone plate assembly according to claim 1, wherein said screw retaining mechanism partially blocks a portion of the screw disposed in said through opening thereby defining said locked position.

16. The bone plate assembly according to claim 1, wherein said screw retaining mechanism does not block a portion of the screw disposed in said through opening thereby defining said unlocked position.

17. The bone plate assembly according to claim 1, wherein said screw retaining mechanism is flush with an outer surface of said base plate.

21. The bone plate assembly according to claim 1, wherein said aperture is defined by a wall including a groove radially and outwardly recessed in said wall and said screw retaining mechanism is within said groove and said screw retaining mechanism is a C-shaped washer that is collapsible to be inserted into said groove of said aperture.

61. A bone plate assembly utilizing at least one bone screw for fixation of adjacent bones of a spine comprising:

a base plate including at least one hole extending therethrough;

insert means operatively engaged within said at least one hole for accommodating the bone screw; and

a screw retaining mechanism having an internal, eccentric opening, the screw retaining mechanism mounted and rotatable within said insert means between locked and unlocked positions relative to said insert means for preventing the bone screw from backing out from said base plate.